

In the Drawings

The attached replacement and annotated sheet(s) of drawings include changes to FIGS. 1 and 2 as follows:

FIG. 1 has been amended to include descriptive legends for the boxes therein.

FIG. 2 has been amended to include descriptive legends for the boxes therein.

Attachment: Replacement sheet(s)
Annotated sheet(s) showing changes

REMARKS

The Office Action mailed November 13, 2007 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Drawings

The drawing figures have been amended to include descriptive legends for the boxes therein. No new matter has been introduced. Approval of the corrections is respectfully requested.

Specification

The specification has been amended in order to correct minor typographical and translational errors.

Subject Matter Indicated Allowed or Allowable

Applicants are grateful for the indication of allowability of claims 2-3, subject to the 35 U.S.C. § 112 issues outlined in the Office Action and to their re-writing in independent form. Claims 2-3 have been amended to overcome the 35 U.S.C. § 112 issues. However, they have not been rewritten in independent form because the claims from which they depend are believed to be allowable on their own merit, as explained below.

Canceled Claims

Claim 9 has been canceled without prejudice or disclaimer of the subject matter contained therein.

Claim Objections

Claim 1 has been corrected in lines 5 and 6 in accordance with the Examiner's suggestions, which are gratefully acknowledged.

Rejection(s) Under 35 U.S.C. § 112, First Paragraph

Claims 1-7 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled

in the art to which it pertains or with which it is mostly nearly connected, to make and/or use the invention. At issue is the term “integral.” Applicants respectfully submit that that term is a mistranslation of the French word “*entier*” in which language the disclosure was originally written. The correct translation of the term “*entier*” is “integer,” and both the specification and the claims have been amended to accurately reflect the correct translation. Accordingly, using the correct translation, the phrase “the largest possible integer number *m* of groups of packets” refers to the operation of selection module 34, which obtains the largest integer number *m* of groups of packets with the same identifier by isolating groups of packets containing the largest number of received packets with the same identifier from among the different groups of received packets, as explained in the first paragraph of page 6.

With respect to off-line evaluation recited in claim 6, this simply means that the evaluation of the bandwidth between a first point and a second point is made when there is no digital data exchange between said points. The specification has been amended to clarify this mode of operation.

Rejection(s) Under 35 U.S.C. § 112, Second Paragraph

Claims 1-7 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 1 has been amended to as discussed above, changing the term “integral” to “integer,” and the rejection under 35 U.S.C. § 112, second paragraph, is moot.

The formula of claim 2 has been amended to obviate the errors therein.

Claims 5 and 6 have been amended to obviate the antecedent basis error therein.

The term “off-line” has been clarified in the specification. The term “on-line” is the converse of that and should now be clear. It appears for instance on page 6, line 29, of the original specification.

Rejection(s) Under 35 U.S.C. § 102

Claims 8 and 9 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Zhang et al. (U.S. pat. no. 7,133,368).

Claim 9 has been canceled and the rejection thereof is moot. Claim 8 has been amended to include various features that are not disclosed in Zhang, as discussed in detail below. Specifically, claim 9 now recites, *inter alia*,

- g. means for associating a same identifier with quasi-simultaneously transmitted packets for each transmission direction through at least one of said sub-networks, ...
- i. means for identifying and sorting the packets received with the same identifier,
- j. means for selecting the largest possible integer number m of groups of packets with the same identifier,

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. §102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.¹ The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Zhang is respectfully urged.

Rejection(s) Under 35 U.S.C. § 103 (a)

Claims 1, 4-5 and 7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gross (U.S. pat. no. 6,850,541) in view of Zhang et al. Applicants respectfully traverse.

Claim 1 recites, *inter alia*, “associating a same identifier with quasi-simultaneously transmitted packets.” The passage in Gross to which the Office Action makes reference does not disclose this feature. To quote that passage *verbatim*, it states,

Each set of packet pairs uses a different packet size. One set may use a small packet size, and the other set may use a large packet size. For example, set 402 of packet pairs may use a packet size of 96 bytes, whereas set 403 of packet pairs may use a packet size of 512 bytes. By using different packet sizes, delays attributable to packet size may be accounted for.

(Gross, col. 3, ll. 22-28.)

Claim 1 further recites, “identifying and sorting the packets received with the same identifier,” and “selecting the largest possible integer number m of groups of packets with the same identifier,” neither of which features are disclosed in Gross. With respect to selecting the largest possible integer number m of groups packets with the same identifier, the Office Action points to FIG. 6B and to the passage of column 4, lines 31-47 of Gross. However, this passage relates to placement into different bins of measured time deltas, and does not discuss selection of the largest possible integer number m of groups of packets with the same identifier. In fact, as explained above, in Gross, no identifiers are provided at all, much less any selection based on groups associated with identifiers. This is because the Gross method generates histograms based on binned time delays, and does not perform selection based on largest groupings of packets with the same identifier. Zhang adds nothing to cure this shortcoming.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gross in view of Zhang as applied to claim 1 above, and further in view of Botvich (U.S. pub. no. 2005/0100009).

Claims 6 depends from base claim 1. Botvich fails to remedy the above-mentioned shortcomings of Gross and Zhang with respect to base claim 1. Accordingly, claim 6, which by definition includes all the limitations of base claim 1, is patentable over the combination of these references.

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Conclusion

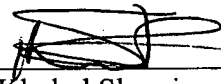
In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
THELEN REID BROWN RAYSMAN & STEINER LLP

Dated: 04/14/2008



Khaled Shami
Reg. No. 38,745

THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040



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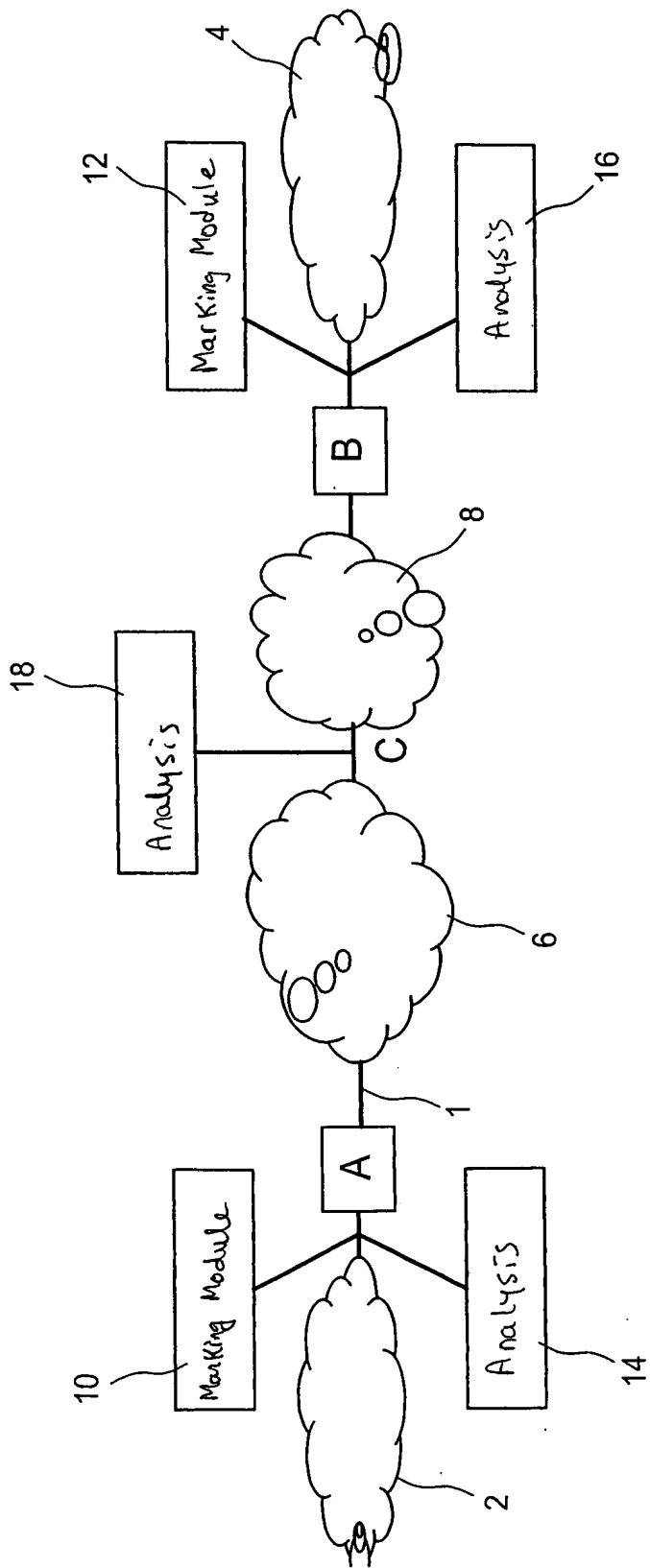


FIG. 1



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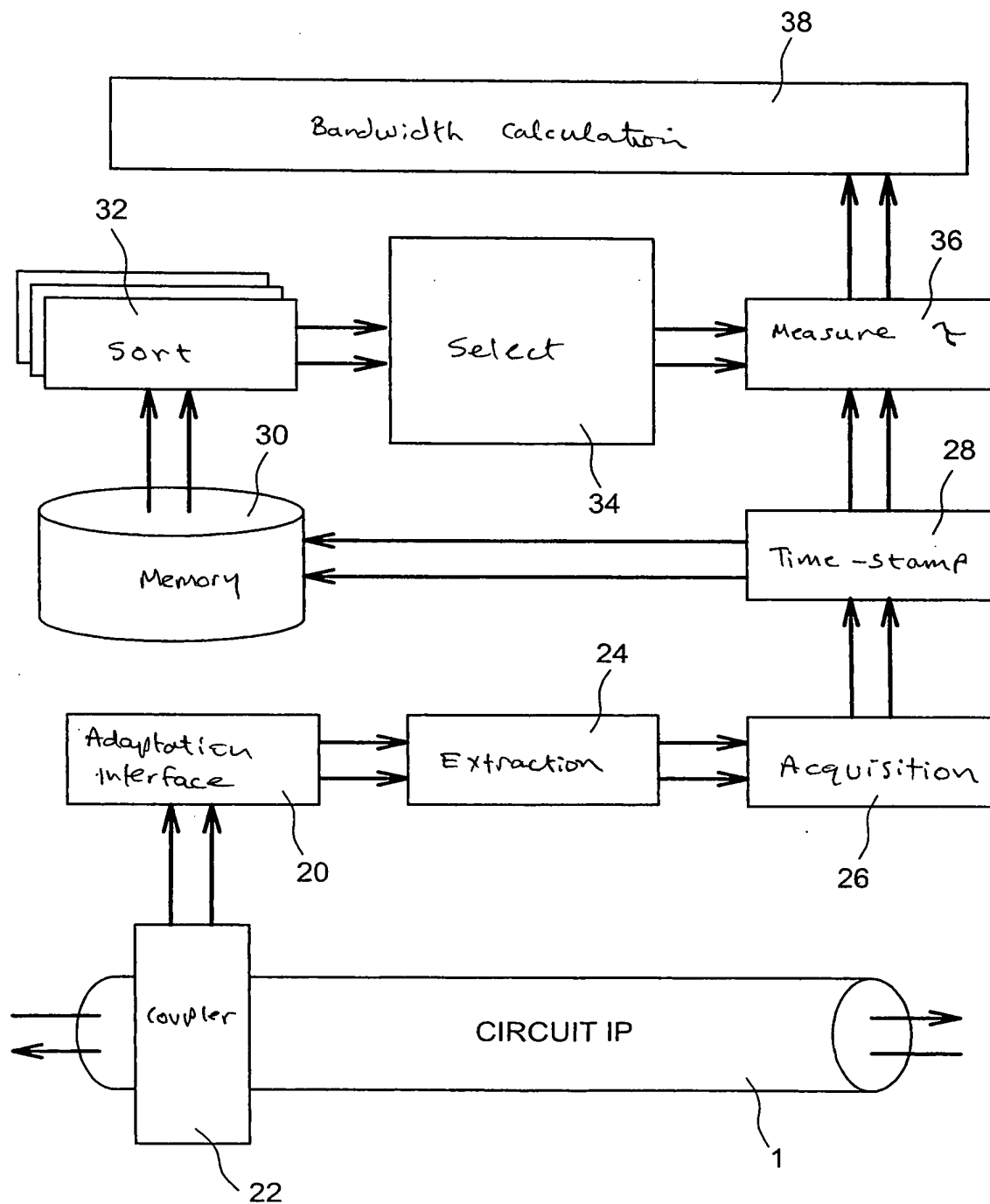


FIG. 2